

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. CR-08-62-D
)
D'ANGELO TYREE McCORVEY,)
)
Defendant.)

UNOPPOSED MOTION TO CONTINUE FINAL REVOCATION HEARING

D'Angelo Tyree McCorvey, through counsel, moves to continue the final revocation hearing scheduled at 9:30 a.m. on May 29, 2020. In support of this motion, counsel states:

- 1) A petition was filed April 28, 2020, alleging Mr. McCorvey violated supervised release conditions. *Doc. 95*. A summons was issued pursuant the petition and Mr. McCorvey is ordered to appear May 26, 2020, at 9:30 a.m. for a final hearing on the petition. *Doc. 97*;
- 2) The petition alleges four violations. Violation 1 is arguably the most serious violation and stems from Mr. McCorvey's arrest April 18, 2020 in Oklahoma City, Oklahoma, on charges of driving under the influence, failure to stop at a stop sign, driving without a license, and driving without insurance. These alleged offenses are the subject of a municipal court prosecution in the City of Oklahoma City Municipal Court. The City of Oklahoma City case is pending. Mr. McCorvey is required to appear on July 7, 2020, for an arraignment;

3) Undersigned counsel was appointed to represent Mr. McCorvey on May 26, 2020. *Doc. 100.* Counsel immediately discussed the case with Mr. McCorvey. Counsel contacted the United States Probation Office requesting additional information subsequent to his meeting with Mr. McCorvey. In response to counsel's request, on May 27, 2020, the United States Probation Office provided counsel a copy of the police report associated with the April 18, 2020, traffic stop. Counsel was also advised there is bodycam video associated with the stop;

4) After reviewing the police report with Mr. McCorvey, counsel deems it necessary to obtain and review the bodycam video and, if available, the results of testing on blood samples drawn from Mr. McCorvey after his arrest on April 18, 2020. It is not known at this time when the results of the blood test will be available. The United States Probation Office was informed it could take as much as two months from the date the sample was drawn for the results to be disclosed;

5) Because the charges forming the basis for Violation 1 are pending, it will be difficult to defend the allegations made in the petition as it concerns the commission of criminal offenses. Mr. McCorvey's Fifth Amendment privilege will be compromised by going forward with the revocation hearing at this time. Because of Fifth Amendment implications the Court may be deprived of evidence that could show one or more of the allegations against Mr. McCorvey are not supported by credible evidence if the revocation hearing proceeds at this point in time;

6) Counsel requests a continuance of three weeks to obtain additional information about the pending City of Oklahoma City case and the results of the blood test. The current schedule provides counsel only two days to prepare for the hearing. A continuance of three weeks is reasonable given the need for additional evidence and given the potential consequences to Mr. McCorvey as set forth in the Violation Report filed May 27, 2020. *Doc. 101 - filed under seal;*

7) Mr. David McCrary, Assistant United States Attorney, advised counsel he does not object to a continuance of this matter.

Based on the preceding, counsel and defendant request the hearing scheduled May 29, 2020, be continued to on or after June 19, 2020.

Respectfully submitted,

s/ William P. Earley
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CERTIFICATE OF SERVICE

I hereby certify that on this the 27th day of May, 2020, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic filing to the following ECF registrants: David McCrary, Assistant United States Attorney.

s/ William P. Earley
WILLIAM P. EARLEY